

REMARKS

The Applicants appreciate the thorough examination of the present application that is reflected in the Official Actions of September 9, 2004, and March 10, 2005. In particular, the Applicants appreciate the Examiner's withdrawal of all objections relating to the specification from the Office Action of September 9, 2004. In response, the Applicants will show in the following remarks that all claims are patentable over the cited art. Reconsideration of all outstanding rejections and allowance of all claims is thus respectfully requested in due course.

I. Claims 1, 18, And 19 Are Patentable Over Zhao

Claims 1, 18, and 19 have been rejected under 35 U.S.C. Sec. 102(e) as being unpatentable over U.S. Patent No. 6,081,840 to Zhao ("Zhao"). In response, the Applicants will show that Claims 1, 18, and 19 are patentable over Zhao for at least the reasons discussed below.

Claim 1, for example, recites a method of dynamically redeploying services in a computing network, the method including:

- receiving a redeployment trigger for a selected service;
- determining one or more network locations where the selected service has been deployed from its original location at an origin server;
- programmatically removing the selected service from the network locations and the origin server; and
- programmatically replacing the selected service at the network locations and the origin server. (Underline added.)

In support of the rejection, the Final Office Action cites column 3, lines 1-2, 9-15, and 15-18 of the Zhao patent. The Final Office Action further states that, "as seen in column 3, lines 1-25, there are local and source servers that update data which inherently removes and replaces data." (Final Office Action, page 8.) As discussed in the Manual Of Patent Examining Procedure (MPEP), the Examiner must provide rationale or evidence tending to show inherency. More particularly,

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. ... "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing

may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted)....

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).... (Underline added.)

MPEP, Sec. 2112(IV).

The Applicants respectfully maintain that Zhao fails to teach or suggest the recitations of Claim 1 either expressly or inherently. Zhao discusses:

efficiently distributing well-composed data to remotely located, computer system end users. The system includes a source server at which all the data available to the end user is stored. ... [W]hen the data is not available locally, the local server is able to contact the source server and obtain the data for the end user when it is requested.

Zhao, col. 2, lines 38-67. In particular, cited portions of Zhao state that:

Data stored at the local servers are collections of data files that the local servers subscribed from the source server. Initial subscriptions can be based on various factors, such as location, type of local server, user profiles, standard subscriptions, etc. After the initial subscription, usage at the local server determines the data collections which are to be stored at the local server site. The minimum subscription unit is a collection, and it is assumed that similar files are in a collection. The local server maintains a means for determining the number of times each data file collection has been used, or accessed. When the number exceeds a predetermined value over a predetermined amount of time, and the data file collection is not already stored at the local server, the local server initiates a subscription request to the source server for the collection. The local and source servers then communicate to update the subscriptions by transferring new data and updating the tables and listings of what is available and stored at each location. When the usage number of a collection is below a predetermined value over a known period of time, the local server may decide that it does not need to store that data locally and initiates a procedure of communications between the local and source servers to stop subscription of the collection, update the records and tables, and delete the collection from the local server.

Zhao, col. 3, lines 1-25. As further discussed in the Detailed Description,

the source content server 10 contains all of the data which is ultimately desired by one or more of the users 22-28. ... [I]f the local server finds that some files are frequently being requested that it does not contain ..., a subscription request is generated by the local server to get the frequently requested file data for storage in the local server.

Zhao, col. 4, lines 42-56.

As demonstrated in the passages cited above, Zhao discusses a local server generating a subscription request to get frequently requested file data from a source content server which contains all of the data which is ultimately desired by one or more of the users. Zhao, however, fails to teach or suggest removing file data from the source content server or replacing file data at the source content server. In Zhao, a data file collection is transferred from the source server to a local server responsive to a subscription request, and tables and listings of what is available and stored at each location are updated. Zhao thus fails to teach or suggest, either expressly or inherently, "removing the selected service from the network locations and the origin server", or "replacing the selected service at the network locations and the origin server", as recited in Claim 1. (Bold and underline added.) Moreover, Zhao fails to teach or suggest (either expressly or inherently) removing a selected service from both source and local servers of Zhao and replacing the selected service at both source and local servers of Zhao.

Accordingly, the Applicants respectfully submit that Zhao fails to teach or suggest the recitations of Claim 1 and that Claim 1 is thus patentable. The Applicants further submit that Claims 18 and 19 are patentable for reasons similar to those discussed above with regard to Claim 1. In addition, Dependent Claims 2-17 and 20-23 are patentable at least as per the patentability of Claims 1, 18, and 19 from which they depend. If the Examiner should maintain any rejections of Claims 1, 18, and/or 19 based on inherency, the Applicants respectfully request that the Examiner provide a basis to reasonably support a determination that removing a selected service from source and local servers and replacing the selected service at source and local servers "necessarily flow from" the teachings of Zhao.

II. Various Dependent Claims Are Independently Patentable

As discussed above, dependent Claims 2-17 and 20-23 are patentable at least as per the patentability of Claims 1, 18, and 19 from which they depend. Various of these dependent claims are also separately patentable for reasons discussed in greater detail below.

A. Dependent Claims 2, 20, And 21 Are Separately Patentable Over Zhao

Claims 2, 20, and 21 have been rejected under 35 U.S.C. Sec. 102(e) as being unpatentable over U.S. Patent No. 6,081,840 to Zhao ("Zhao"). Dependent Claim 2, for example, depends from Claim 1 and thus includes all recitations of Claim 1 as discussed above. In addition, Claim 2 recites that the redeployment trigger comprises a redeployment request from the origin server.

In contrast to the recitations of Claim 2, Zhao states that "the local server initiates a subscription request to the source server for the collection." (Zhao, col. 3, lines 14-15.) In support of the rejection of Claim 2, the Final Office Action states that at col. 3, lines 9-15, "Zhao discloses a local server initiating a subscription request." Final Office Action, page 8.

Zhao thus teaches away from the recitations of Claim 2. More particularly, in Claim 2, "the redeployment trigger comprises a redeployment request from the origin server," where the selected server has been deployed from its original location at the origin server. In contrast, Zhao discusses a local service initiating a subscription request to a source server (Zhao, col. 3, lines 14-15) where all data available to the end user is stored at the source server (Zhao, col. 2, lines 41-42). Stated in other words, the redeployment trigger of Claim 2 comes from the origin server and the origin server is the source of the deployment, while in Zhao, the local server initiates the request and the local server is the recipient of the resulting transfer.

Accordingly, Zhao teaches away from a redeployment request from an origin server (where the origin server is the original location of the selected service being deployed), and Claim 2 is thus separately patentable. In addition, Claims 20 and 21 are separately patentable for reasons similar to those discussed above with respect to Claim 2.

B. Dependent Claims 3, 22, And 23 Are Separately Patentable Over Zhao

Claims 3, 22, and 23 has been rejected under 35 U.S.C. Sec. 102(e) as being unpatentable over U.S. Patent No. 6,081,840 to Zhao ("Zhao"). Dependent Claim 3, for example, depends from Claim 1 and thus includes all recitations of Claim 1 as discussed above. In addition, Claim 3 recites sending the redeployment trigger when the selected service is to be revised.

In contrast to the recitations of Claim 3, Zhao discusses initiating a subscription request when a number of times a data file collection has been used or accessed exceeds a predetermined

value. (*See*, Zhao, col. 3, lines 11-15.) In support of the rejection of Claim 3, the Final Office Action states that:

As seen in, column 3, lines 9-15, there is a subscription request that is initiated when a tracking number exceeds a predetermined value.

Final Office Action, page 8.

Accordingly, Zhao discusses initiating a subscription request when a number of times a data file collection has been used or accessed exceeds a predetermined value, as opposed to sending a redeployment request when a selected service is to be revised. Zhao thus fails to teach or suggest sending a redeployment request when a selected service is to be revised, and Claim 3 is thus separately patentable. In addition, Claims 22 and 23 are separately patentable for reasons similar to those discussed above with respect to Claim 3.

C. Dependent Claim 5 Is Separately Patentable Over Zhao

Claim 5 has been rejected under 35 U.S.C. Sec. 102(e) as being unpatentable over U.S. Patent No. 6,081,840 to Zhao ("Zhao"). Dependent Claim 5 depends from Claim 1 and thus includes all recitations of Claim 1 as discussed above. In addition, Claim 5 recites unpublishing the selected service after receiving the redeployment trigger, until completion of programmatically removing the selected service and programmatically replacing the selected service, and then republishing the selected service thereafter.

In support of the rejection of Claim 5, the Final Office Action states that at col. 3, lines 15-18, "Zhao discloses transferring of data and updating tables and listings." (Final Office Action, page 4) Transferring of data and/or updating tables and listings, however, fails to teach or suggest unpublishing a selected service. Accordingly, Claim 5 is separately patentable over Zhao.

D. Dependent Claim 6 Is Separately Patentable Over Zhao

Claim 6 has been rejected under 35 U.S.C. Sec. 102(e) as being unpatentable over U.S. Patent No. 6,081,840 to Zhao ("Zhao"). Dependent Claim 6 depends from Claims 2 and 1 and thus includes all recitations of Claims 2 and 1 as discussed above. In addition, Claim 6 recites sending a subsequent redeployment request to each of the network locations, responsive to receiving the redeployment request from the origin server.

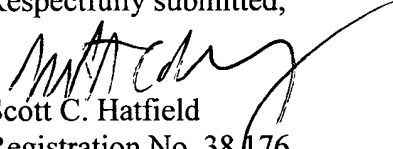
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In support of the rejection of Claim 6, the Final Office Action cites col. 3, lines 9-15 of Zhoa. As discussed above with respect to Claim 2, however, Zhoa fails to teach or suggest a redeployment request from the origin server. Accordingly, Zhoa also fails to teach or suggest sending a subsequent redeployment request to teach of the network location servers. In contrast, Zhoa discusses a subscription request initiated by a local server. (*See*, col. 3, lines 14-15.) Accordingly, Claim 6 is separately patentable over Zhoa.

CONCLUSION

Accordingly, the Applicants submit that all pending claims in the present application are in condition for allowance, and allowance of all claims is respectfully requested in due course.

Respectfully submitted,


Scott C. Hatfield
Registration No. 38,176
Attorney For Applicants

USPTO Customer No. 46589
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401